

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHAEL CRUZ, *on behalf of himself and  
all others similarly situated,*

Plaintiff,

-v.-

MISSION PETS, INC.,

Defendant.

20 Civ. 1263 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

Plaintiff, a visually-impaired and legally blind person, filed the putative class action complaint in this action on February 12, 2020, alleging that Defendant, Mission Pets, Inc. (“Mission Pets”), failed to make its website accessible to Plaintiff and other blind or visually-impaired people, in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12181, and New York City Human Rights Law, N.Y.C. Administrative Code § 8-107(4)(a). (Dkt. #1). Service was Mission Pets on February 13, 2020, by service upon the Mission Pets’ registered agent. (Dkt. #5). On March 2, 2020, the Court scheduled an initial pretrial conference in this action for May 6, 2020. (Dkt. #6). Mission Pets’ answer was due on March 5, 2020. (See Dkt. #5). However, Mission Pets never filed an answer or otherwise appeared in this action. On April 30, 2020, the Court reached out to counsel for Plaintiff by email, to see if Plaintiff had any contact with Mission Pets or knew whether Mission Pets would be appearing in the action. The Court never heard back from Plaintiff’s counsel.

On May 4, 2020, the Court adjourned the initial pretrial conference in this case and notified Plaintiff that if he intended to move for a default judgment he should do so in accordance with the Court's Individual Rules on or before June 5, 2020. (Dkt. #7). Plaintiff did not file any papers on the docket nor did he make any contact with the Court's Chambers. On June 9, 2020, the Court ordered Plaintiff to show cause, on or before June 19, 2020, why this case should not be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). (Dkt. #8). Plaintiff has not done so. Notably, between when the Court issued its order for Plaintiff to show cause, on June 9, 2020, and June 19, 2020, Plaintiff in this action filed at least nine other case in this Court (one of which was assigned to the undersigned), represented by the same counsel, against other defendants alleging similar claims to those he raises in the Complaint in this case. *See Shael Cruz v. Leafly Holdings, Inc.*, 20 Civ. 4423 (AT), Dkt. #1 (complaint filed June 10, 2020); *Shael Cruz v. Esquivel, LLC*, 20 Civ. 4426 (JGK), Dkt. #1 (complaint filed June 10, 2020); *Shael Cruz v. Anthony Brands Holdings, Inc.*, 20 Civ. 4424 (GBD), Dkt. #1 (complaint filed June 10, 2020); *Shael Cruz v. Red Wing Brands of America, Inc.*, 20 Civ. 4426 (PAE), Dkt. #1 (complaint filed June 10, 2020); *Shael Cruz v. Genfoot America Inc.*, 20 Civ. 4427 (JMF), Dkt. #1 (complaint filed June 10, 2020); *Shael Cruz v. Creative Apparel Concepts, Inc.*, 20 Civ. 4429 (GBD), Dkt. #1 (complaint filed June 10, 2020); *Shael Cruz v. Soha Designs Inc.*, 20 Civ. 4578 (GHW), Dkt. #1 (complaint filed June 15, 2020); *Shael Cruz v. Peacock Alley, Inc.*, 20 Civ. 4580 (MKV), Dkt. #1 (complaint filed June 15, 2020); *Shael Cruz v. Industrial*

*Revolution, Inc.*, 20 Civ. 4582 (KPF), Dkt. #1 (complaint filed June 16, 2020).

The Court is thus assured that both Plaintiff and his counsel continue to actively litigate during the pandemic.

Accordingly, this case is hereby DISMISSED pursuant to Fed. R. Civ. P. 41(b). *See West v. City of New York*, 130 F.R.D. 522, 524-26 (S.D.N.Y. 1990).

SO ORDERED.

Dated: June 22, 2020  
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Failla".

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KATHERINE POLK FAILLA  
United States District Judge